



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Negotiation of a Reciprocal Defense Procurement Agreement with the Ministry of Defense of Austria

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for public comments.

SUMMARY: On behalf of the U.S. Government, DoD is contemplating negotiating and concluding a new Reciprocal Defense Procurement Agreement with the Ministry of Defense of Austria. DoD is requesting industry feedback regarding its experience in public defense procurements conducted by or on behalf of the Austrian Ministry of Defense or Armed Forces.

DATES: Comments must be received **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit comments by email to *jeffrey.c.grover.civ@mail.mil*.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Grover, telephone 703-380-9783.

SUPPLEMENTARY INFORMATION:

DoD has concluded Reciprocal Defense Procurement (RDP) Agreements with 28 qualifying countries, as defined in the Defense Federal Acquisition Regulation Supplement (DFARS) 225.003, at the level of the Secretary of Defense and his counterpart. The purpose of an RDP Agreement is to promote

rationalization, standardization, and interoperability of conventional defense equipment with allies and other friendly governments. These Agreements provide a framework for ongoing communication regarding market access and procurement matters that enhance effective defense cooperation.

RDP Agreements generally include language by which the Parties agree that their defense procurements will be conducted in accordance with certain implementing procedures. These procedures relate to—

- Publication of notices of proposed purchases;
- The content and availability of solicitations for proposed purchases;
- Notification to each unsuccessful offeror;
- Feedback, upon request, to unsuccessful offerors concerning the reasons they were not allowed to participate in a procurement or were not awarded a contract; and
- Provision for the hearing and review of complaints arising in connection with any phase of the procurement process to ensure that, to the extent possible, complaints are equitably and expeditiously resolved.

Based on the Agreement, each country affords the other country certain benefits on a reciprocal basis consistent with national laws and regulations. The benefits that the United States accords to the products of qualifying countries include—

- Offers of qualifying country end products are evaluated without applying the price differentials otherwise required by the Buy American statute and the Balance of Payments Program;
- The chemical warfare protection clothing restrictions in 10 U.S.C. 2533a and the specialty metals restriction in 10 U.S.C. 2533b do not apply to products manufactured in a qualifying country; and
- Customs, taxes, and duties are waived for qualifying country end products and components of defense procurements.

If DoD (for the U.S. Government) concludes a new RDP Agreement with the Ministry of Defense of Austria and DoD executes a blanket public interest determination, as intended, Austria will be listed as one of the qualifying countries at DFARS 225.872-1(a), removing the purchase-by-purchase requirement at DFARS 225.872-1(b) and individual determination procedures at DFARS 225.872-4.

While DoD is evaluating Austria's laws and regulations in this area, DoD would benefit from U.S. industry's experience in participating in Austrian public defense procurements. DoD is, therefore, asking U.S. firms that have participated or attempted to participate in procurements by or on behalf of Austria's Ministry of Defense or Armed Forces to let us know if the procurements were conducted with transparency, integrity, fairness, and due process in accordance with published procedures, and if not, the nature of the problems encountered.

DoD is also interested in comments relating to the degree of reciprocity that exists between the United States and Austria when it comes to the openness of defense procurements to offers of products from the other country.

Jennifer D. Johnson,

Editor/Publisher,

Defense Acquisition Regulations System.

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